

LICENSE AGREEMENT

THIS LICENSE AND RENTAL AGREEMENT (the "License Agreement") made this 12th day of February, 2002 between The TOWN OF LEESBURG (LICENSOR), 25 West Market Street, Leesburg, Virginia 20176, a body corporate and politic and a political subdivision of the State of Virginia, and MONTGOMERY COUNTY, MARYLAND, 101 Monroe Street, Rockville, Maryland 20850, a body corporate and politic and a political subdivision of the State of Maryland, (the "COUNTY"); (the LICENSOR and the COUNTY together "the PARTIES").

WITNESSETH

WHEREAS, the PARTIES have agreed to enter into a License Agreement, under the terms of which the LICENSOR will permit the COUNTY to install and maintain the COUNTY'S 800 Mhz Bi-Directional Amplifier System, to be located on the roof of the Leesburg Water Treatment Plant at 43234 Edwards Ferry Road, Leesburg, Virginia, also known as the ("the Property"). The COUNTY also shall install and operate electronic equipment modules on the existing roof, which is associated with the maintenance and operation of the antennae.

WHEREAS, the PARTIES desire to enter into this License Agreement to permit the COUNTY to use the Property to maintain communications antennae and equipment modules and to provide for the payment of compensation to LICENSOR for use of the Property.

NOW, THEREFORE, in consideration of the above recitals, which are incorporated into this License Agreement as if fully set forth; and for the payment of ONE DOLLAR (\$1.00) to LICENSOR by the COUNTY; and for payment of fees by the COUNTY to the LICENSOR for the use of the license as provided in this License Agreement; and for other good and valuable, consideration, the receipt of sufficiency of which are hereby acknowledged by the PARTIES, the PARTIES agree as follows:

1. GRANT AND EXTENT OF LICENSE: LICENSOR hereby grants to the COUNTY a License to occupy and maintain, subject to all of the terms of this License Agreement, for the purpose of the installation and operation of antennae and equipment modules on the roof of the Property. In addition, the COUNTY is allowed access to and use of the electronic equipment modules housed on the roof of the Property. The Property is shown on Exhibit "A," which is attached to this License Agreement and incorporated as if fully set forth. The COUNTY will have the right of ingress to and egress from the Property, 24 hours a day, seven days a week provided the COUNTY contacts Security by telephone before entering and is escorted to the Property. Security's telephone number is 703- 771- 4500.

2. TERM: The License granted by LICENSOR to the COUNTY is effective for a term of five (5) years, commencing on the final signature of this Agreement, and ending at midnight five (5) years hence. (the "License Term").

3. PAYMENT OF RENT: During the License Term the COUNTY shall in lieu of the payment of rent to the LICENSOR allow the Leesburg Police Department use of the COUNTY'S Firearms Range located at 16600 Elmer School Road, Dickerson, Maryland. The COUNTY'S Chief of Police, Charles A. Moose approved the use of the Firing Range by the Leesburg Police Department by written memorandum on April 10, 2001 and is incorporated into this Agreement and attached hereto as Exhibit "B".

4. RENEWAL: Provided the COUNTY is not in default, this agreement shall automatically renew for one (5) year term (the "Renewal Term") unless either Party notifies the other Party of its intention not to renew in writing at least thirty (30) days prior to the end of the current term. The License agreement shall be renewed under the same terms and conditions.

5. NO ELECTRICAL OR MAGNETIC INTERFERENCE: The COUNTY will attach and energize any antenna installed by the COUNTY on the Property in such a manner that the reception and transmission signals of the LICENSOR are not interfered with or degraded. The COUNTY must pay the cost of proper installation or any required corrective action. If any antenna installed on the Property by the COUNTY causes any interference with or degradation of the LICENSOR'S signals and the interference or degradation is not corrected by the COUNTY within 72 hours after written notification from LICENSOR, then LICENSOR shall have the right to shut down the interfering equipment until the interference or degradation is corrected.

The LICENSOR will send written notification of any interference problems caused by the COUNTY sent to COUNTY to:

Attention: Facilities Services Section
Montgomery County Dept. of Public Works
101 Orchard Ridge Drive, 2nd Floor
Gaithersburg, Maryland 20878
Tel. No. (240) 777-6080
Fax No. (240) 777-6047

6. UTILITY SERVICE: The COUNTY agrees to pay for all costs associated with the operation of the antenna and the related equipment located on the roof of the Leesburg Water Treatment Plant, including all costs for telephone and electrical wiring and outlets used by the COUNTY. The electric lines or other utilities serving the COUNTY'S Communications equipment must have a separate utility metering to be paid for by the COUNTY.

7. HOLD HARMLESS: To the extent limited by law, the COUNTY hereby agrees to indemnify and hold the LICENSOR harmless against any claims which may be made against the LICENSOR for loss or damage to persons or property caused solely by the antenna or resulting from the COUNTY'S use of the Property or installation, repair or maintenance of the equipment by the COUNTY. This indemnification is subject to the liability and damage caps stated in the Local Government Tort Claims Act, Md. Cts. & Jud. Proc. Code Ann. §§5-301, et seq., as amended from time to time (the "LGTC"). This indemnification is not intended to be a waiver of governmental immunity by the County, and is not intended to create any rights or causes of

action in third parties. The County shall not be liable for damages or injury occasioned by the acts of omissions of LICENSOR or its agents, or failure to comply with its obligations under this License.

8. INSURANCE: COUNTY shall have the right to self-insure. The COUNTY is a member of the Montgomery County Self-Insurance Program; Article 20-37 of the Montgomery County Code restricts the legal defense fund to members of the Fund and does not allow for outside entities. The certificate of insurance evidences limits of insurability for general liability coverage in the amounts of \$500,000 aggregate and \$200,000 each occurrence and \$20,000 per person, \$40,000 per accident for bodily injury and \$10,000 for property damage for automobile liability and state statute limits for workman's compensation. These are the maximum limits of liability for which Montgomery County Self-Insurance Program is responsible, as determined by the LGTCA. This insurance policy must be maintained continuously by the COUNTY during the full term of this License Agreement and during any extension of the License Term. COUNTY shall deliver to LICENSOR a certificate of insurance evidencing the coverage above described within fifteen (15) days after execution of this License Agreement.

9. NON-APPROPRIATION: This License Agreement is subject to the annual appropriation of funds. This License Agreement shall terminate automatically on July 1 of any year for which Montgomery County, for whatever reason, does not appropriate funds to operate this project as stated. The COUNTY shall give LICENSOR at least thirty (30) days written notice of the lack of appropriation. The LICENSOR shall not make or be entitled to any claim for reimbursement of any kind, whether for improvements or prepaid items for any amount of money for which there has been no appropriation.

10. GOVERNING LAW This License Agreement shall be governed by and interpreted in accordance with the laws of the State of Maryland. All claims arising out of this Agreement must be filed in a trial court of competent jurisdiction in Montgomery County, Maryland. Licensee agrees to abide by the non-discrimination in employment provisions in Federal, State and County Law.

11. BROKERAGE FEES AND COMMISSIONS: LICENSOR and the COUNTY have not retained anyone to solicit or secure this License from Montgomery County, Maryland, and no commission or other fees are due to any person or entity as the procuring cause of entering into this License Agreement.

12. NO EMPLOYMENT OF PUBLIC EMPLOYEE: LICENSOR understands that unless authorized under Section 11-B-46 or 11-B-54 of the Montgomery County Code (1994), as amended, it is unlawful for any person transacting business with Montgomery County, Maryland, to employ a public employee for employment contemporaneous with his or her public employment.

13. NOTICES: Any Notice given under this License Agreement will be deemed sufficient if certified mail, return receipt requested, facsimile or delivered by hand by and

receipted messenger service or any receipted, nationally recognized commercial or governmental oversight deliver service. Notices to the Parties shall be sent to:

LICENSOR

The Town of Leesburg
C/o Leesburg Police Department
65 Plaza Street, N.E.
Leesburg, Va. 20176
Tel. 703-771-4500
Fax. 703-771-4545
Attn. Chief Joseph Price

LICENSEE

Montgomery County Government
Division of Facilities & Services
Leasing Management
101 Orchard Ridge Drive, 2nd Floor
Gaithersburg, Maryland 20878
Tel. 240-777-6080
Fax. 240-777-6047

With copy to:
Office of the County Attorney
Montgomery County
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850

14. TERMINATION: The COUNTY may terminate this Agreement in the event the COUNTY is unable to obtain needed building or other needed permits or agreements.

15. QUIET POSSESSION: Upon execution of this License Agreement and payment of each yearly installment when due, the COUNTY will be entitled to peaceful possession and use of the Property for the purposes set out in the License Agreement.

16. COVENANTS BY THE LICENSOR: The LICENSOR covenants that the LICENSOR has good and sufficient title to the Property; and that the person executing this License Agreement on behalf of the LICENSOR has full authority to enter into and execute this Agreement, and to bind the LICENSOR. The LICENSOR has no knowledge of any liens or judgements affecting the LICENSOR'S title to the Property or of any covenants, easements or restrictions that prohibit the use of the Property by the COUNTY as set forth above. The COUNTY may choose to obtain an examination and report of title and zoning on the Property prior to the effective date of this Lease Agreement, and may terminate the License Agreement if the results on any such examination of title and zoning of the Property demonstrates that COUNTY will not be permitted to use the Property for the purposes intended by the Parties.

17. REMOVAL OF EQUIPMENT: The communications antenna and equipment installed by the COUNTY is and shall remain the property of the COUNTY and upon the expiration or earlier termination of this License agreement, the COUNTY shall, at its sole cost and expense, remove communication antenna and equipment and return the Property to substantially the existing condition as before, normal wear and tear excepted, or leave it in its improved condition with written consent of LICENSOR.

18. FULL AGREEMENT OF THE PARTIES: This License Agreement contains the entire agreement of the PARTIES. The PARTIES will not be bound by any verbal or oral agreements or understandings that have not been expressly incorporated into this License Agreement.

19. MODIFICATION: This License Agreement can only be modified by a written modification agreement signed by the PARTIES. Any addition or modification to this License Agreement must be made in writing and signed by the PARTIES.

20. BINDING NATURE: The License Agreement shall inure to the benefit of and bind the successors, and assigns of the PARTIES as limited by the terms of this License Agreement.

21. NOT A PARTNERSHIP: This License Agreement is intended only to create a license relationship between the PARTIES for the use of the Property. As a result of entering into this License Agreement, The TOWN OF LEESBURG may not be construed or held to be a partner or joint venturer of the COUNTY in the conduct of the COUNTY'S business. The relationship of the PARTIES is and will remain that of LICENSOR and LICENSEE.

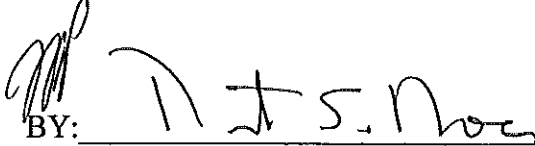
SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the PARTIES hereto have set their hand and affixed there respective seals the day and year first above written.

WITNESS:

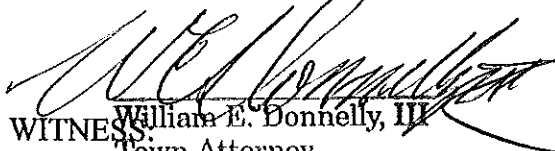
LICENSOR: THE TOWN OF LEESBURG

BY: _____

BY: 
Robert S. Noe, Town Manager

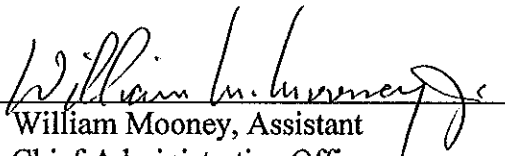
Approved as to Form:

Date: 2/12/02


WITNESS: William E. Donnelly, III
Town Attorney

COUNTY:
MONTGOMERY COUNTY, MARYLAND

BY: Rebecca S. Domaruk


BY: 
William Mooney, Assistant
Chief Administrative Officer

Date: 1/16/02

APPROVED AS TO FORM AND
LEGALITY OFFICE OF THE
COUNTY ATTORNEY

RECOMMENDED BY:

BY: 

BY: 
J. Ronald Smith, Chief
Division of Facilities and Services

Date: 1/10/2002

Date: 1/15/02

Leesburg

LIGHTNING ROD
 BOND GROUND CONDUCTOR
 TO LIGHTNING ROD
 PARAFLECTOR,
 SEE DWG. RP6.5
 BOND GROUND CONDUCTOR
 TO TRIPOD
 NON-PENETRATING TRIPOD,
 SEE DWG. RP6.5

ROOF LINE

#2 SOLID BARE TINNED
 COPPER IN 3/4" PVC (UV
 RESISTANT) SECURE TO WALL

8' x 3/4" COPPER
 CLAD GROUND ROD

ELEVATION A
 1/4" = 1'-0"
 RP6.4



DEPARTMENT OF POLICE

Douglas M. Duncan
County Executive

April 6, 2001

Charles A. Moose, Ph.D.
Chief of Police

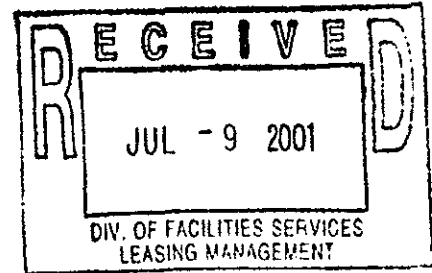
MEMORANDUM

TO: Charles A. Moose, Ph.D. ^{CM}
Chief of Police 4-10-01 *APPROVED*

VIA: Alan G. Rodbell, Assistant Chief of Police
Management Services Bureau

David W. Linn, Director
Technology Division *DL*

FROM: Sergeant Bruce R. Blair, Radio Systems Manager *[Signature]*
Technology Division



SUBJECT: Letter of Agreement with the Leesburg (Va.) Town Police

I am writing to ask for your assistance with a matter of significance concerning the Public Safety 2000 project. As you are aware, adequate radio coverage is one of the most critical requirements of the new voice radio system. In that regard, the topography of the Potomac River valley presents a special challenge. The river gorge has traditionally been an area of poor radio coverage.

The Potomac River valley is an area that requires public safety service on a regular basis due to the high volume of water sports enthusiasts and hikers that use the river for recreational purposes. The upper Potomac valley is also where our outdoor firing range is located.

The design of the new voice radio system seeks to correct long-standing coverage problems by picketing the river with a series of radio sites along the rim of the river valley. One such recommended site is to be located at the municipal water filtration plant owned by the Town of Leesburg, Virginia. Ironically, this site will also be a part of the solution to the current radio coverage problems in the upper Potomac valley, including the firing range at Elmer's School Road. Should we have a medical or law enforcement emergency at the range this radio site will provide the range with coverage that currently does not exist.

Exhibit "B"

Leesburg Town Memo

April 6, 2001

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I have been in contact with Joseph R. Price, Chief of Police, Town of Leesburg, requesting his assistance in this matter. Chief Price has extended to us a great deal of support in working with the Town Manager and the approval authorities both in the town and in Loudoun County. His intervention has helped us to obtain an agreement with the town that is both generous and technically desirous. The town has offered to allow us to locate the site at their facility with no recurring costs to Montgomery County. In exchange for his assistance, Chief Price is asking permission for his officers to use our firing range on Elmer School Road. He informs me that his time requirement would involve quarterly training and re-qualification. Chief Price understands that scheduling priority will be given to Montgomery County officers, and that his officers must adhere to all administrative and safety rules set forth by the Director, Training and Education Division.

This matter has been brought to the attention of Captain Douglas McFee, Training and Education Division. He assigned Sergeant Russ Hamill to assist. I have spoken with Sgt. Hamill and have determined that such an accommodation has been made for other law enforcement agencies in the past.

In light of Chief Price's help and generous offer I am supplying a letter of agreement mutual agreement for your signature. Should you approve the use of our range, Chief Price informs me that the letter will serve as sufficient documentation of the agreement.

Your assistance and consideration in this matter is appreciated.

BRB

Attachment

CC: Captain McFee
Sergeant Hamill